

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL NO. 4:05CR94 RAS/DDB
	§	
JAMES FREDERICK PATE II (3)	§	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on October 1, 2015 to determine whether Defendant violated his supervised release. Defendant was represented by Frank Henderson. The Government was represented by Andrew Stover.

On November 3, 2005, Defendant was sentenced by the Honorable Paul Brown, United States District Judge, to a sentence of 60 months imprisonment followed by a 4-year term of supervised release for the offense of Conspiracy with Intent to Manufacture, Distribute, Possess and Dispense Methamphetamine. Defendant began his term of supervision on July 9, 2009. This case was reassigned to the Honorable Richard A. Schell on June 18, 2007.

On September 1, 2015, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender under Supervision (the "Petition") (Dkt. 231). The Petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall not commit another federal, state, or local crime; (2) Defendant shall refrain from any unlawful use of a controlled substance; (3) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or paraphernalia related to any controlled substances, except

as prescribed by a physician; (4) Defendant shall report to the probation officer as directed by the Court or probation officer, and shall submit a truthful and complete written report within the first five days of each month; and (5) Defendant shall participate in a program of testing and treatment for drug abuse, under the guidance and direction of the U.S. Probation Office, until such time as Defendant is released from the program by the probation officer.

The Petition alleges that Defendant committed the following violations: (1) On August 29, 2015, Defendant was arrested in Denton, Texas, by Denton Police Department for Accident Involving Damage to Vehicle. On January 31, 2015, Defendant was arrested in Denton, Texas, by Denton Police Department for Possession of a Controlled Substance; (2) On July 22, 2015, Defendant submitted a urine specimen that tested positive for methamphetamine. The specimen was confirmed positive by Alere Laboratories, Inc.; (3) On August 24, 2015, Defendant verbally admitted and signed a written admission stating he used K2 on several occasions during the months of June and July 2015; (4) Defendant failed to submit a written monthly report for the months of April, May, June, and July 2015; and (5) Defendant failed to participate in the random drug testing program by failing to submit a random urine specimen on August 3, 13, 17, 20 and 26, 2015; July 1, 17 and 28 2015; June 18 and 18, 2015; and May 18, 20 and 26, 2015.

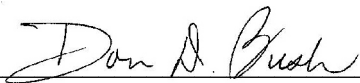
At the hearing, Defendant entered a plea of true to the alleged violations. Defendant waived his right to allocute before the district judge and his right to object to the report and recommendation of this Court. The Court finds that Defendant has violated the terms of his supervised release.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984 and having considered the arguments presented at the October 1, 2015 hearing, the Court recommends that Defendant be committed to the

custody of the Bureau of Prisons to be imprisoned for a term of eight (8) months, with no supervised release to follow.

SIGNED this 8th day of October, 2015.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE